

MALAYSIA 2022 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Malaysia is a federal constitutional monarchy. It has a parliamentary system of government selected through regular, multiparty elections and is headed by a prime minister. The king is the head of state, serves a largely ceremonial role, and has a five-year term. The kingship rotates among the sultans of the nine states with hereditary Malay rulers. The general election on November 19, regarded by observers as generally free and fair, saw no party win a majority of seats in parliament. Anwar Ibrahim, chairman of the Pakatan Harapan coalition, assembled a multiparty government and became prime minister on November 24.

The Royal Malaysian Police maintains internal security and reports to the Ministry of Home Affairs. State-level Islamic religious enforcement officers have authority to enforce some criminal aspects of sharia. Civilian authorities at times did not maintain effective control over security forces. There were reports that members of the security forces committed some abuses.

Significant human rights issues included credible reports of: unlawful or arbitrary killings; torture or cases of cruel, inhuman, or degrading treatment or punishment by government entities; harsh and life-threatening prison conditions; arbitrary arrest and detention; problems with the independence of the judiciary; arbitrary or unlawful interference with privacy; serious restrictions on freedom of expression and media including unjustified arrests or prosecutions of journalists, censorship, and enforcement of criminal libel; restrictions on internet freedom; substantial interference with the freedom of peaceful assembly and freedom of association; severe restrictions on religious freedom; restrictions on freedom of movement; serious government corruption; serious government restrictions on or harassment of domestic human rights organizations; lack of investigation of and accountability for gender-based violence, including widespread female genital mutilation/cutting; significant barriers to accessing reproductive health; trafficking in persons; violence against lesbian, gay, bisexual, transgender, queer, or intersex persons; enforcement of laws criminalizing consensual adult same-sex sexual conduct; and child labor.

The government arrested and prosecuted some officials engaged in corruption,

malfeasance, and human rights abuses, although civil society groups alleged continued impunity.

Section 1. Respect for the Integrity of the Person

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were scattered reports the government or its agents committed arbitrary or unlawful killings, mostly in the prison system.

In January a detainee died in police custody at a temporary detention center at Taiping District, Perak State. The Royal Malaysian Police (RMP) subsequently charged two police officers and two detainees with “causing harm in relation to a death.” As of November there were no convictions related to this case.

In May Coroner Rasyiah Ghazali ruled that there was “abuse of power and elements of a criminal nature” in the death of three men, including a Sri Lankan national, shot by police at close range in 2019 for their alleged involvement in armed robberies in Rawang, Selangor State. The coroner concluded that police did not shoot in self-defense, citing several disputed facts including the position of the bodies, the weapons used, and the unexplained disappearance of the wife of one of the victims.

A Unit on Deaths in Custody within the Criminal Investigation Division of the RMP began to investigate all cases of custodial deaths in January. In February the RMP announced several measures to improve detention management including publicizing death-in-custody cases as a standard operating procedure. Observers suggested that the numbers of custodial deaths in previous years were likely underreported.

Investigation by the Criminal Investigation Division into the use of deadly force by a police officer occurs only if the attorney general initiates the investigation or approves an application for an investigation by family members of the deceased. When the attorney general orders an official inquiry, a coroner’s court convenes, and the hearing is open to the public. In such cases courts generally issued an “open verdict,” meaning that there would be no further action against police.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

In April the Human Rights Commission of Malaysia (SUHAKAM) released the results of its public inquiry into Christian convert Joshua Hilmy and wife Ruth Sitepu (a couple missing since 2016) and found that they were victims of enforced disappearance. Then-SUHAKAM Commissioner Mohd Hishamudin Yunus, who chaired the inquiry, said the commission found no evidence that Hilmy and Sitepu were abducted by “agents of the state,” but concluded authorities failed to investigate the case “diligently and seriously.”

In July the High Court allowed Norhayati Mohd Ariffin, wife of missing activist Amri Che Mat, to continue her bid to compel the government to declassify and give her a special task force report on Amri’s 2016 enforced disappearance. The judge ruled Norhayati was adversely affected and had an arguable case; the judge also noted that classifying the report under the Official Secrets Act put a “pause to her quest for justice” on what she believed to be the abduction of her husband. In 2019, the SUHAKAM found the disappearance of Amri Che Mat was carried out by the Special Branch of the RMP.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and Other Related Abuses

No law specifically prohibits torture; however, laws that prohibit “committing grievous hurt” encompass torture. More than 60 offenses are subject to caning, sometimes in conjunction with imprisonment, and judges routinely mandated caning as punishment for crimes, including kidnapping, rape, and robbery, and nonviolent offenses, such as narcotics possession, criminal breach of trust, migrant smuggling, immigration offenses, and others. Civil and criminal law exempt men older than 50, unless convicted of rape, and all women from caning. Boys between ages 10 and 18 may receive a maximum of 10 strokes of a “light cane” in a public courtroom.

Impunity was occasionally a problem in the security forces due in part to corruption and the lack of transparency and civilian oversight. Police abuse of suspects in custody and a lack of accountability for such offenses remained a serious problem.

In February the Enforcement Agency Integrity Commission stated it was unable to confirm the existence of a “dirty cops” cartel as claimed by former inspector general of police Abdul Hamid Bador in 2021. Abdul described the finding as “shallow and incorrect” and stood by his assertion that a “cartel” of officers were conspiring with criminals.

In August the Indonesian consul general in Sabah State filed a formal complaint with the Sabah State government after the Sabah immigration department allegedly wrongfully imprisoned and caned Indonesian citizen Sabri Umar in April after the termination of his work permit. The Tawau Sessions Court charged Sabri for not having a valid immigration permit, despite his possession of legitimate documentation, and sentenced him to 11 months in prison and five strokes of the cane. In June the Tawau prison administered the five strokes despite a pending appeal. On July 22, the High Court in Tawau acquitted Sabri but noted that he had already been caned.

In April the RMP introduced two new human rights modules, developed in collaboration with SUHAKAM, into its main competencies for the Basic Police Training Program.

Prison and Detention Center Conditions

Conditions in prisons and detention centers could be harsh and life threatening due to overcrowding.

Abusive Physical Conditions: Overcrowding in prisons and immigration detention centers, particularly in facilities near major cities, remained a serious problem. According to the Home Affairs Ministry, 20 of the country’s 37 prisons were overcrowded. In Kuala Lumpur as well as Selangor and Kelantan States, prisons exceeded capacity by 45 to 50 percent. According to World Prison Brief, as of August 2021 the country had 69,507 inmates in 52 prisons designed to hold 61,242 inmates.

A May report by the human rights nongovernmental organization (NGO) Suaram found that prisons were overcrowded, with evidence of poor living conditions, such as windowless cells and inmates forced to sleep on the floor. Inmates were also concerned about ill-treatment and deaths in custody. Local advocates said transgender women served their sentences in prisons designated for men, and police and inmates abused them sexually and verbally.

In June five Chinese nationals told the media that after months in an immigration detention center, they suffered from “itchiness and pustules” and malnutrition, and the food at the detention center was “extremely unhygienic.”

In July RMP secretary Noorsiah Mohd Saaduddin confirmed 19 deaths in custody through July 15. In a media statement Noorsiah said that of the 19, nine were in police lockups, eight in hospitals, and two died on the way to the hospital.

In July Minister of Home Affairs Hamzah Zainudin told parliament that 258 men, 34 women, and six children died in immigration detention centers between January 2020 and July 2022. As of April 26, there were 1,528 children (851 boys, 677 girls) in immigration detention centers nationwide; they were not segregated from adult detainees.

Administration: The law allows for investigations into allegations of mistreatment; however, this provision was not always observed. Officers found responsible for deaths in custody did not generally face punishment.

Authorities restricted rights to religious observance for practitioners of all non-Sunni branches of Islam, which the government bans as “deviant.”

Independent Monitoring: Authorities generally did not permit domestic NGOs or media to monitor prison conditions. The law allows judges to visit prisons to examine conditions and ask prisoners and prison officials about conditions. The government’s Enforcement Agency Integrity Commission, the International Committee of the Red Cross, and SUHAKAM monitored prisons and detention centers on a case-by-case basis.

The government did not grant the Office of the UN High Commissioner for Refugees (UNHCR) access to detention facilities where migrant laborers and refugees were held.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

Police may detain persons suspected of terrorism, organized crime, gang activity, and trafficking in drugs or persons without a warrant or judicial review for two-

year terms, renewable indefinitely. Within seven days of the initial detention, however, police must present the case for detention to a public prosecutor. If the prosecutor agrees “sufficient evidence exists to justify” continued detention and further investigation, a fact-finding inquiry officer appointed by the minister of home affairs must report within 59 days to a detention board appointed by the king on the advice of the government. The board may renew the detention order or impose an order to restrict, for a maximum of five years, a suspect’s place of residence, travel, access to communications facilities, and use of the internet. In other cases, the law allows investigative detention for up to 28 days to prevent a criminal suspect from fleeing or destroying evidence during an investigation.

Immigration law allows authorities to arrest and detain noncitizens for 30 days, pending a deportation decision.

Arrest Procedures and Treatment of Detainees

The law permits police to arrest and detain individuals for some offenses without a warrant, even outside situations of a crime in progress or other urgent circumstances. During investigations police may hold a suspect for 24 hours, which may be extended for a maximum of 14 days by court order under general criminal law provisions. NGOs reported a police practice of releasing suspects and then quickly rearresting them to continue investigative custody without seeking judicial authorization.

Some NGOs asserted that a police approach of “arrest first, investigate later” was prevalent, particularly in cases involving allegations of terrorism. By law a person must be informed of the grounds for arrest by the arresting officer.

Bail was usually available for persons accused of crimes not punishable by life imprisonment or death. The amount and availability of bail is at the judge’s discretion. Persons granted bail usually must surrender their passport to the court.

Police must inform detainees of their rights to contact family members and consult a lawyer of their choice. Nonetheless, police often denied detainees access to legal counsel and questioned suspects without allowing a lawyer to be present. Police justified this practice as necessary to prevent interference in investigations in progress, and the courts generally upheld the practice.

While authorities generally treated attorney-client communications as privileged,

Malaysian Anti-Corruption Commission (MACC) officials may question lawyers who accompanied their clients to nonjudicial commission hearings about their interaction with their clients and the content of their discussions.

Police sometimes did not allow detainees prompt access to family members or other visitors.

The law allows the detention of a material witness in a criminal case if that person is likely to flee.

Arbitrary Arrest: Authorities sometimes used their powers to intimidate and punish opponents of the government. Activists and government critics were sometimes subjected to late-night arrests, long hours of questioning, and lengthy remand periods, even if they were not ultimately charged with an offense.

In May police initiated an investigation against Lim Kit Siang, then a member of parliament from the opposition Democratic Action Party (DAP), over a post on Twitter. The investigation was opened on the allegation that the tweet contained a comment that could disrupt public order and harmony of the country. Kit Siang had voiced concerns on his blog that Malaysia (referring to a crisis in Sri Lanka) might become a failed state in the next three or four decades.

Pretrial Detention: Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years. World Prison Brief reported that pretrial detainees comprised 42 percent of the prison population in 2021.

e. Denial of Fair Public Trial

Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and executive influence over judicial appointments limited judicial independence and strengthened executive influence over the judiciary. The judiciary frequently deferred to police or executive authority in cases those parties deemed as affecting their interests.

Members of the Malaysian Bar Council, NGO representatives, and other observers expressed serious concern regarding significant limitations on judicial independence, citing several high-profile instances of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers.

Representatives of these groups argued that the lines between the executive, the judiciary, and the state were blurred and that the judiciary needed to exert more independence and objectivity.

In June hundreds of lawyers gathered peacefully as part of the Malaysian Bar Council's "Walk for Judicial Independence." Participants expressed the bar's dissatisfaction with the government's "intimidation" of the judiciary, specifically the MACC investigation into Appellate Court Judge Nazlan Mohd Ghazali, according to media reports. Nazlan presided over the 2020 conviction of former prime minister Najib Razak in a case related to the 1Malaysia Development Berhad money-laundering scheme, and Bar Council members believed the MACC investigation into the judge was unfounded. Bar Council President Karen Cheah, who led the walk, told media that the protest message was that the MACC investigation was "a covert attempt to intimidate the judiciary and overrule the conviction [of Najib] and must not be tolerated."

Trial Procedures

The constitution provides for a fair and public trial, and the judiciary generally enforced this right, although those without means and relying on legal aid often did not have adequate time to prepare for trial. Defendants have the right to communicate with an attorney of their choice or to have counsel appointed at public expense only if they face charges that carry the death penalty; in certain other cases defendants may apply for a public defender. Although defendants may present witnesses and evidence on their behalf, limited pretrial discovery in criminal cases impeded the defense.

Defendants may appeal court decisions to higher courts, but only if the appeal raises a question of law or if material circumstances raise a reasonable doubt regarding conviction or sentencing. The Malaysian Bar Council claimed these restrictions were excessive.

In cases related to terrorism or national security, the law allows police to hold persons, even after acquittal, against the possibility of appeal by the prosecution.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals or organizations may sue the government and officials in court for alleged violations of human rights; however, a large case backlog often resulted in delays in civil actions to the disadvantage of plaintiffs. The courts encouraged the use of mediation and arbitration to speed settlements.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

Laws prohibit such actions; nevertheless, authorities sometimes infringed on citizens' privacy. Under national security laws, police may enter and search the homes of persons suspected of threatening national security without a warrant. The government monitored the internet and threatened to detain anyone sending or posting content the government deemed a threat to public order or security (see section 2.a.).

Islamic authorities may enter private premises without a warrant to apprehend Muslims suspected of engaging in offenses such as gambling, consumption of alcohol, and sexual relations outside marriage.

The government does not recognize marriages between Muslims and non-Muslims and considers children born of such unions illegitimate.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The constitution allows restrictions on the freedom of expression "in the interest of the security of the Federation...[or] public order." The government regularly restricted freedom of expression for members of the public, media, and civil society, citing reasons such as upholding Islam and the special status of ethnic Malays, protecting national security, maintaining public order, and preserving friendly relations with other countries. The government curbed freedom of expression, particularly freedom of the press.

Freedom of Expression: The law prohibits sedition and public comment on topics defined as sensitive, including racial and religious matters or criticism of the

king or ruling sultans. The law prohibits speech “with deliberate intent to wound the religious feelings of any person.”

Police charged activist artist Fahmi Reza in February with “posting content with the intent to annoy others.” The charges related to an image Fahmi posted on social media in June 2021 depicting two beer cans, one with the logo of the Pan-Malaysian Islamic Party (PAS), a party in the ruling coalition, with the phrase “Carlsberg for All.” Fahmi posted the image in response to the government’s decision to allow beer factories to continue operating while other businesses were shuttered to limit the spread of COVID-19. The Kuala Lumpur Sessions Court granted Fahmi a “discharge not amounting to an acquittal” on the case on October 14. Fahmi in February pled not guilty to separate charges of making an “obscene” social media post with the “intent to annoy a person” in February 2021, arising from his post on Twitter referring to then-minister of health Adham Baba as a “pig”; those charges were dropped in August.

On April 25, the sharia high court of Kuala Lumpur sentenced opposition member of parliament Maria Chin Abdullah to seven days in jail for her 2019 statement that the country’s sharia laws discriminated against women. Abdullah, a convert to Islam, made the statement after the former wife of a prominent businessman served a seven-day jail sentence handed down by a sharia court for rescheduling her former husband’s child visitation dates.

In June RMP Criminal Investigation Division Chief Abd Jalil Hassan reported that police arrested 46 individuals since January for statements that were defamatory and insulting towards the country’s royalty and said, “there are limits to freedom of speech.”

Violence and Harassment: Journalists were subjected to harassment and intimidation.

In May the National Union of Journalists Peninsular Malaysia and press freedom advocacy group *Gerakan Media Merdeka* (Movement for an Independent Media) called for authorities to take action against any party that assaults journalists in the field after a security guard at a branch of the Immigration Department in Kuala Lumpur shouted at two journalists from news portal *The Vibes*, snatched a journalist’s mobile phone, and told them to stop interviewing visitors to the Immigration Department regarding slow passport processing times.

Censorship or Content Restrictions for Members of the Press and Other Media, Including Online Media:

The government maintained the ability to control news content, including the ability to censor, and at times exerted such control of both print and broadcast media. The government banned, restricted, or limited circulation of some publications it considered a threat to public order, morality, or national security. The law requires a permit to own a printing press, and printers often were reluctant to print publications critical of the government due to fear of reprisal. Such policies inhibited independent or investigative journalism and resulted in self-censorship in print and broadcast media. Online media outlets were more independent but were more likely to be the target of legal action and harassment.

The government occasionally censored foreign magazines, newspapers, and news programming, most often due to sexual content.

In October the Ministry of Home Affairs banned three publications for being “detrimental to morality.” The publications, *Chelsia Amanda (Berdasarkan Kisah Benar)* (Chelsea Amanda (Based on a True Story)), *Heartstopper Volume 2*, and *Cekik* (Choke), reportedly contained “obscene and immoral content” and were deemed an attempt to “promote” lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) culture (see section 6, Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics – Restrictions of Freedom of Expression, Association, or Peaceful Assembly).

Libel/Slander Laws: The law includes sections on civil and criminal defamation. Criminal defamation is punishable by a maximum two years’ imprisonment, a fine, or both. True statements may be considered defamatory if they contravene the “public good.” The government and its supporters used these laws, along with provisions against sedition, to punish and suppress publication of material critical of government officials and policies.

In January the chief of the Malaysia Anti-Corruption Commission, Azam Baki, demanded investigative journalist and whistleblower Lalitha Kunaratnam issue a public apology, pay 10 million ringgit (\$2.4 million) in damages, and delete articles in which Kunaratnam questioned Baki’s business ties and claimed he owned shares in two companies.

In April the Federal Court ruled that the government may sue individuals for

defamation and be sued in turn. It also decided that political parties may not sue individuals for defamation because they do not have a “reputation” as such.

In September the former editor-in-chief of business news outlet *The Edge*, Azam Aris, was charged with criminal defamation in connection with articles published in *The Edge* in September 2020 and April 2021 concerning alleged manipulation of penny stocks. Former top executives of Media Prima, the country’s largest media and entertainment conglomerate, and *The Star*, the country’s largest circulating English daily, questioned the defamation case against Azam, noting that news reports on stock manipulations published during his editorial leadership represented fair reporting and were of public interest.

According to media reports, the Ministry of Home Affairs blocked distribution of the September 17 print edition of *The Economist*. Media speculated the cause was an article on Southeast Asian royal families that included negative stories on various royal families in Malaysia.

National Security: Authorities often cited national security laws to restrict media distribution of material critical of government policies and public officials.

In January police questioned journalist Sean Augustin from media outlet *Free Malaysia Today* about his article reporting that the armed forces rescued flood victims amidst rising waters without waiting for approval from the disaster management agency during a December 2021 flood.

Nongovernmental Impact: Political and religious activists sought to limit freedom of expression through public criticisms of expression deemed dangerous or criminal complaints of allegedly seditious speech. In July a self-described royalist lodged a police report against graphic designer Fahmi Reza for a satirical illustration of the regent of Pahang State. The regent in response described the police report as unnecessary.

Internet Freedom

The government restricted access to some content on the internet. Curtailing internet freedom to combat dissenting political views online, authorities blocked some websites and monitored the internet for messages and blog postings deemed a threat to public security or order.

The government warned internet users to avoid offensive or indecent content and

sensitive matters such as religion and race, and it aggressively pursued charges against those criticizing Islam, the country's royalty, or its political leaders.

Sedition and criminal defamation laws led to self-censorship by local internet content sources, including bloggers, news providers, and activists.

The law requires internet and other network service providers to obtain a license and permits punishment of the owner of a website or blog for allowing offensive racial, religious, or political content. The government regards those who post content as publishers, thereby placing the burden of proof on the poster. NGOs and members of the public criticized the law, noting it could cause self-censorship due to liability concerns.

In August international NGO Civicus reported on numerous attempts by authorities to intimidate and punish opponents of the government, including the arrest in April of a DAP campaign worker in Johor State for sedition related to his Facebook post that allegedly encouraged ethnic-Indian Malaysians not to vote for the Malaysian Indian Congress, a political party that was part of the then-ruling coalition.

Restrictions on Academic Freedom and Cultural Events

The government placed some restrictions on academic freedom, particularly the expression of unapproved political views, and enforced restrictions on teachers and students who expressed dissenting views. The government required all university faculty members and students to sign a pledge of loyalty to the king and government. Some politicians and human rights activists claimed the government used the loyalty pledge to restrain political activity among these groups. Although faculty members sometimes publicly criticized the government, public university academics whose career advancement and funding depended on the government practiced self-censorship. Self-censorship took place among academics at private institutions as well, spurred by fear the government might revoke the licenses of their institutions. The law imposes limitations on student associations and on student and faculty political activity. Students remain prohibited from "expressing support or sympathy" for an unlawful society or organization.

Police in July charged Muhammad Aliff Naif, student union president at the International Islamic University of Malaysia, with failing to give police five days' notice before organizing a protest against rising inflation. The university's Academic Staff Association issued a statement in support of the student.

Government restrictions on radio and television stations mirrored those on print media, and electronic media predominantly supported the government. Television stations censored programming to follow government guidelines. Kissing onscreen, portrayals of homosexuality, sex scenes, nudity, strong graphic violence, and strong language are all prohibited or censored.

The government generally restricted publications it judged might incite racial or religious disharmony. The Ministry of Home Affairs maintained a list of more than 1,700 banned publications as of November 2020.

In February the Kuala Lumpur High Court ruled that there was “no evidence and/or factual basis” for the December 2020 banning of the book *Gay is OK! A Christian Perspective*. The Ministry of Home Affairs claimed the contents of the book were “detrimental to public order, morals, and public interest;” the book had been sold since 2012.

The government censored films for certain political and religious content, not allowing, for example, screening of films in Hebrew or Yiddish, or from Israel. Although the government allowed foreign films at local film festivals, it sometimes censored content by physically blocking screens until the objectionable scene was over.

The Film Censorship Board barred the movies *Thor: Love and Thunder* and *Lightyear* from being screened in cinemas after Disney refused to cut scenes “promoting the LGBT lifestyle.” Deputy Communications and Multimedia Minister Zahidi Zainul Abidin said the government was committed to “curtailing gay culture.”

In July the Kuala Lumpur city government revoked the business license of a Kuala Lumpur comedy club; police charged two individuals after an open-mic performance at the club was characterized as “insulting Islam.” The charges related to a widely viewed online video of a woman, Siti Nuramaira Abdullah, talking at the comedy club about the Quran while removing her attire to reveal undergarments. Comedians, social media users, and religious groups criticized the woman for “insulting Islam.” On July 13 the woman and her partner were charged with “causing disharmony on grounds of religion” and “improper use of network facilities,” respectively. As of November the cases were pending.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association but allows restrictions deemed necessary or expedient in the interest of security, public order, or (in the case of association) morality. Abiding by the government's restrictions did not protect some protesters from harassment or arrest.

Freedom of Peaceful Assembly

The constitution provides citizens “the right to assemble peaceably and without arms”; however, several laws restricted this right. Although the law does not require groups to obtain a permit for assemblies, police frequently placed time, location, and other restrictions on the right to assemble. Authorities often banned street protests, and police sometimes confronted civil society and opposition demonstrations with mass arrests.

In January police questioned more than 50 activists who attended a rally in Kuala Lumpur to demand the arrest of MACC Chief Azam Baki for holding extensive shares of stock in companies. The 200 protestors gathered for two hours, calling for the government to institute reforms in the MACC. On the eve of the protest, police called in several activists for questioning, closed roads and rail services heading into Kuala Lumpur, and during the protest were present in large numbers. Police did not press charges against attendees.

Freedom of Association

The constitution provides for the right of association; however, the government placed significant restrictions on this right, and certain statutes limit it. By law only registered organizations of seven or more persons may legally function. The government often resisted registering organizations deemed particularly unfriendly to the government or imposed strict preconditions. The government may revoke registrations for violations of the law governing societies.

The government bans membership in unregistered political parties and organizations.

Many human rights and civil society organizations had difficulty obtaining government recognition as NGOs. As a result, many NGOs registered as companies, which created legal and bureaucratic obstacles to raising money to

support their activities. Authorities frequently cited a lack of registration as grounds for action against organizations. Some NGOs also reported the government monitored their activities to intimidate them.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

The constitution provides for freedom of internal movement, emigration, and repatriation, but these rights were often restricted by federal and state government officials, particularly in eastern Sabah and Sarawak States.

In-country Movement: Sabah and Sarawak States controlled immigration into their territories and required foreigners and citizens from peninsular Malaysia to present passports or national identity cards for entry. State authorities continued to deny entry to certain individuals to these states. Sarawak maintained its ban on several academics, religious leaders, and human rights defenders, including Zakir Naik, an Islamic preacher; Mandeep Karpal Singh, formerly of the fair-election NGO coalition Bersih; Bersih chair Thomas Fann; former Bersih chair Ambiga Sreenevasan; Wong Chin Huat, an academic and Bersih resource chair; Jerald Joseph, a former SUHAKAM commissioner; and activists Colin Nicholas and Jannie Lasimbang, among others. There were some restrictions on in-country movement by refugees and asylum seekers (see section 2.e.).

Foreign Travel: Travel to Israel is subject to approval and limited to religious purposes for all citizens.

e. Protection of Refugees

The government generally did not impede organizations providing protection and assistance to migrants, refugees, and stateless persons, most of whom lived intermingled with the public. The government cooperated to a limited extent with UNHCR and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers. As there is no legal framework for dealing with refugees and asylum seekers in the country, UNHCR conducted all activities related to protection, including registration and status determination.

Access to Asylum: The law does not provide for granting asylum or refugee status, and the government has not established a system for providing protection to refugees.

Migrants, refugees, and stateless persons received no government support. The government allowed UNHCR and NGOs to work with these populations, but government cooperation with UNHCR was inconsistent.

Viewed as “illegal immigrants,” refugees and asylees also faced a maximum of five years’ imprisonment, a fine, or both, and mandatory caning with a maximum of six strokes if convicted of immigration law violations.

Refoulement: Refugees and asylees were subject to deportation at any time, although the government did not deport Rohingya, nor much of the other refugee population. In October, however, the government refouled to Burma a Burmese military defector and his wife, both of whom were registered with UNHCR and were immediately arrested upon their arrival in Rangoon, as part of a deportation of 150 Burmese nationals, including others who allegedly had UNHCR refugee status. Human Rights Watch reported that an additional 1,500 Burmese nationals were deported between April and September. In August a Pakistani journalist and UNHCR-registered refugee living in the country since 2011 was forcibly returned to Pakistan at the request of the Pakistan government. As of year’s end, the journalist had not been heard from since deportation.

The government forcibly repelled boats with refugees and asylum seekers who had come from a country where their lives or freedom could be threatened due to their race, religion, nationality, membership in a particular social group, or political opinion. In cases where the boats landed, UNHCR reported it had no access and the individuals were detained for illegal entry.

Abuse of Migrants and Refugees: Security services continued to perform immigration raids, including targeting civil society organizations that support refugees. The government continued to arrest undocumented migrant workers, including children, and held thousands of individuals in confined and congested cells at immigration detention centers and other facilities. Access to those in detention centers was often significantly limited. UNHCR affirmed that authorities continued to disallow visits by its staff members to detention centers to meet potential refugees and asylum seekers, determine those in need of international protection, and advocate for their release.

NGOs and international organizations involved with these populations made credible allegations of overcrowding, inadequate food and clothing, lack of regular access to clean water, poor medical care, improper sanitation, and lack of bedding in the immigration detention centers.

Local and international NGOs estimated most of the country's 12 permanent and nine temporary immigration detention centers were at or beyond capacity, with some detainees held for a year or longer. The number of persons detained in these centers was not publicly available.

Human rights organizations expressed serious concerns over the lack of access to fair legal process and adequate representation during immigration court hearings. The Malaysian Bar Council strongly criticized the immigration courts in detention centers as facilitating a legal process where migrant workers were not provided with a clear understanding of the charges against them in their own language and were effectively denied the right to legal counsel. At court hearings, 15 to 20 migrants were often tried together, grouped by the offense with which they were charged. If found guilty, the cost of deportation generally fell to the detainee, which led to prolonged detention for those unable to pay.

In March UN Special Rapporteur on Human Rights Defenders Mary Lawlor criticized the government's handling of harassment and death threats faced by a Rohingya activist in Malaysia. Lawlor said the government had not responded to a December 2021 letter issued by a group of rapporteurs on Zafar Ahmad Abdul Ghani's plight. She stated the lack of response made her question if the government took the matter seriously.

Freedom of Movement: The government generally tolerated the presence of undocumented refugees and asylum seekers but sometimes detained them for a variety of causes in police jails or immigration detention centers until they could be deported or UNHCR established their bona fides. Some refugees holding UNHCR identification cards reported limited ability to move throughout the country because authorities sometimes did not recognize the UNHCR card.

Employment: Although the government does not authorize UNHCR-registered refugees to work, it typically did not interfere if they performed informal work. UNHCR reported the government brought charges in a few cases against employers for hiring refugees. Refugees employed in the informal sector were paid lower wages than comparable employees and were vulnerable to exploitation.

Access to Basic Services: The government provided access to health care at a discounted foreigner's rate of 50 percent to UNHCR-registered refugees, but not to persons without UNHCR registration cards. NGOs operated static and mobile clinics, but their number and access were limited. Refugees did not have access to the public education system. Access to education was limited to schools run by NGOs and ethnic communities, and UNHCR estimated no more than 40 percent of refugee children attended school. A lack of resources and qualified teachers limited opportunities for most school-age refugee children.

f. Status and Treatment of Internally Displaced Persons

Not applicable.

g. Stateless Persons

The National Registration Department did not maintain records of stateless persons. Baseline figures of stateless persons and persons "at risk" of statelessness in Sabah, where approximately 136,055 Filipino Muslim refugees resided, were unavailable.

The country contributes to statelessness, including through discrimination against women in nationality laws, procedural problems and bureaucratic requirements, and birth registration problems. In July the deputy home minister reported that from 2017 to June 30 the Ministry of Home Affairs received 22,701 citizenship applications, of which 14,144 were pending processing.

Citizenship law and birth registration rules and procedures created a large class of stateless children in the migrant and refugee population. When mothers did not have valid proof of citizenship, authorities entered the child's citizenship as "unknown" on the birth certificate. UNHCR deemed this a widespread problem.

Even if the father of a married couple's children is a citizen, the marriage may be considered invalid and the children illegitimate if the mother lacks proof of citizenship; such children were also considered stateless.

If a citizen mother was in a nonmarital relationship with a refugee father, the child could obtain citizenship through the mother, but if a citizen father was not married to a refugee mother, the child would not obtain citizenship. Some observers indicated that Muslim refugees and asylum seekers often had an easier time

registering the birth of a child than non-Muslim refugees and asylum seekers, but registration does not confer citizenship. Authorities often accepted a UNHCR document or other documentation held by refugees or asylum seekers in lieu of a passport as proof of citizenship of their country of origin.

Persons who lacked proof of citizenship were not able to access government services, such as reduced-cost health care, or own property. Previously the federal government permitted stateless children to enroll in public school if parents were able to prove the child's father was a citizen, but in 2020 the minister of education informed parliament that stateless children no longer would have access to public schools but could attend private schools.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: In the November 19 general election, no party or coalition won a majority in parliament; Pakatan Harapan coalition chairman Anwar Ibrahim became prime minister after creating a coalition of parties including Barisan Nasional and several parties from the Borneo States of Sabah and Sarawak. The election was generally free and fair.

Political Parties and Political Participation: Despite strong objections by opposition political parties and civil society, in 2018 the Barisan Nasional coalition government approved redrawn parliamentary districts that critics contended unfairly advantaged Barisan Nasional through gerrymandering and malapportionment. Those districts were used in the November 19 general election; by law the government is not allowed to redraw the electoral boundaries until 2026 unless parliament amends the federal constitution, a process that requires a two-thirds majority vote.

Registering a new political party remained difficult because of government restrictions on the process. For example, it took more than a year for the minister of home affairs to approve (in December 2021) the registration of the Malaysian United Democratic Alliance as a political party.

The constitution fixes the number of seats in parliament assigned to each state to the advantage of rural states and regardless of population shifts over time. Moreover, it does not require equal populations in electoral constituencies in any given state. Each constituency elects one member of parliament. The Electoral Commission has established constituencies with widely varying populations, further to the advantage of rural populations. The December 2021 implementation of automatic voter registration exacerbated these differences as it led to a higher concentration of voters in urban areas which “minimized the influence” of urban voters, according to think tank Merdeka Center. For example, the rural district of Igan had 18,000 registered voters in the 2018 election and 28,290 in the 2022 election. The urban district of Bangi had 178,790 registered voters in 2018 but in 2022, that number shot up to 295,000.

On July 28, parliament unanimously passed constitutional amendments that cause members of parliament to lose their parliamentary seats if they switch to a different political party. The switching of parties for political expediency was considered destabilizing to the political environment. Prime Minister Ismail Sabri, who introduced the amendments in parliament after months of consultations with members from both sides of the aisle and civil society to draft the language, described the overwhelming vote for the amendments as “historic” and “a victory for parliamentary democracy.”

Participation of Women and Members of Minority Groups: No laws limit participation by women or members of minority groups or of historically marginalized groups in the political process, and they did participate. In parliament, 31 women held 14 percent of the seats, a decrease from 14.8 percent in the previous election cycle. Six of 13 Federal Court judges were women, including Chief Justice Tengku Maimun Tuan Mat. There were four non-Muslim judges serving on the Federal Court. Five cabinet positions were held by women.

The political environment was hostile towards women. Attacks on women politicians and women who were critical of the country’s politics were common, including sexist remarks in parliament targeting women members, technology-facilitated gender-based violence like threats of rape and murder via Facebook and other social media platforms, and stereotyping women political candidates. In July member of parliament Tajuddin Abdul Rahman called women opposition members derogatory and sexist names during a parliamentary debate on the Anti-Sexual Harassment bill.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials; several sitting and former government officials remained on trial for corruption, and there was a broadly held perception of widespread corruption and cronyism in government institutions. Media outlets reported numerous cases of alleged official corruption during the year.

The Malaysian Anti-Corruption Commission (MACC) is responsible for investigating corruption in both private and public bodies but does not have prosecutorial authority. An auditor general is responsible, per the constitution, for auditing the accounts of the federal and state governments, government agencies, and other public authorities.

Corruption: On August 23, a Federal Court panel upheld the 2020 conviction of former prime minister Najib Razak on multiple charges related to a subsidiary company of 1Malaysia Development Berhad, a development fund owned by the government; Najib was previously sentenced in 2020 to 12 years' imprisonment and fined 210 million ringgit (\$50 million). On September 1, a High Court judge found Rosmah Mansoor, Najib's wife, guilty on three counts of corruption related to a solar energy project for schools in Sarawak State. The court sentenced Mansoor to 10 years' imprisonment and fined her 970 million ringgit (\$216 million) for soliciting approximately 188 million ringgit (\$42 million) in bribes from a Malaysian solar power company.

On September 23, a judge dismissed 40 graft charges against United Malays National Organization (UMNO) President (and former deputy prime minister) Zahid Hamidi. Zahid, a member of parliament who in November was once again appointed deputy prime minister by the new prime minister, faced 47 other charges of corruption, money laundering, and criminal breach of trust from his time as minister of home affairs.

In February MACC Enforcement Officer Shahrum Nizam Baharuddin pleaded guilty to his part in taking \$6.94 million in cash evidence related to a 2018 criminal breach of trust case. The court sentenced Shahrum to three years' imprisonment and "two strokes of the whip." Shahrum and two other officers were arrested in September 2021 as part of an investigation into allegations of abuse of power and

malfeasance within the MACC.

In August the Sessions Court charged former managing director of Boustead Heavy Industries Tan Sri Ahmad Ramli Mohd Nor, a former commander of the Royal Malaysian Navy, with three counts of criminal breach of trust in connection with a 9.13 billion ringgit (\$2 billion) contract concluded in 2013 for the navy to purchase six littoral combat ships by 2023, none of which were delivered as of year's end. Ahmad Ramli was accused of abusing his position as managing director by offering contracts to companies without approval from the board. The trial was scheduled to begin in November and was pending at year's end.

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights

Domestic and international human rights groups operated subject to varying levels of government restriction, investigating and publishing their findings on human rights cases; however, the government was not always cooperative or responsive to their views.

Outside the political and human rights fields, the government generally allowed NGOs to function independently, met with representatives from some NGOs, and responded to some NGO requests. The government, however, also acted against some human rights defenders and NGOs.

Government Human Rights Bodies: The official human rights commission, SUHAKAM, is headed by a chairperson and comprises commissioners appointed by the king on the recommendation of the prime minister. Observers generally considered SUHAKAM a credible human rights monitor. It conducted training, undertook investigations, issued reports, and made recommendations to the government. SUHAKAM may not investigate court cases in progress and must cease its inquiries if a case becomes the subject of judicial action. In June human rights NGOs issued a statement urging SUHAKAM to release its 2021 annual report, which must be submitted to parliament “no later than the first meeting of Parliament the following year.”

In July then prime minister Sabri appointed seven new SUHAKAM commissioners for the 2022-2025 term. Media, NGOs, and human rights groups criticized some

of the selections, including a former director general of the country's Islamic Development Department and two members of UMNO. They also criticized the selection of the academic Rahmat Mohamad as SUHAKAM chairman. NGOs said the new appointments "compromised SUHAKAM's neutrality" in view of their connection to the government and would hamper the commission's ability to conduct research on matters "sensitive and controversial" to the government.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: Rape of women is a criminal offense, as are most forms of domestic violence. Rape is punishable by a maximum 20 years' imprisonment and caning. The law does not include male survivors in the definition of rape. The law does not recognize spousal rape as a crime.

The government did not enforce laws on rape effectively. Women's groups asserted the courts were inconsistent in punishing rapists. There was a lack of investigation into accusations of rape and gender-based violence, and little accountability. The NGO All Women's Action Society reported that through August its Telenita Domestic Violence helpline received 64 calls related to domestic violence.

Although the government and NGOs maintained shelters and offered other assistance to victims of domestic violence, activists asserted that support mechanisms remained inadequate. Many government hospitals had crisis centers where survivors of rape and domestic abuse could file reports without going to a police station. There was also a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse, and police sometimes assigned psychologists or counselors to provide emotional support. NGOs reported that the government did not take action in cases of domestic violence; victims must keep evidence, gather witness testimony, and ensure their own safety.

In 2020 the NGO Women's Aid Organization reported that 9 percent of women who had ever been in a relationship experienced domestic violence and such violence was "symptomatic of a deeper problem: gender inequality." A November 2021 report by the organization found that 53 percent of respondents believed domestic violence was a "normal" reaction to stress or frustration, and 43 percent believed a woman could so anger a man that he hit her without meaning to,

suggesting a culture deeming such violence acceptable “when perceived as an emotional gesture, or in the event the victim has behaved in a way that triggers the abuse.”

Female Genital Mutilation/Cutting (FGM/C): The law does not prohibit FGM/C, and it was a common practice among Muslim and some indigenous communities. A report released in July by the Asia-Pacific Resource and Research Centre for Women found a “high prevalence” of female circumcision practice, estimating its incidence at between 94.6-99.3 percent among the Muslim population in the country. All studies found that respondents believed FGM/C was part of religion, culture, and tradition. The report also found that the practice was shifting from traditional midwives to trained government midwives and doctors.

Ministry of Health guidelines allow the practice only at government health-care facilities. Advocates and the international medical community remained concerned that the ministry’s endorsement legitimizes the harmful practice and contributes to the “medicalization” of FGM/C. Women’s rights groups contended a 2009 fatwa by the National Council of Islamic Religious Affairs declaring the practice obligatory made FGM/C more prevalent. According to an investigation published by local media in 2018, there were no standard procedures for the practice and “in some cases box cutters and stationery store blades are used.”

Sexual Harassment: The law prohibits a person in authority from using his or her position to intimidate a subordinate by any conduct that is sexual in nature. The law classifies some types of workplace sexual harassment as criminal offenses (see section 7.d.). A government voluntary code of conduct provides a detailed definition of sexual harassment intended to raise public awareness of the problem. Observers noted that authorities took claims seriously, but victims were often reluctant to report sexual harassment because of the difficulty of proving the offense and the lengthy trial process. A proposed bill on sexual harassment was not passed by the Senate before parliament was dissolved in October; it would have established a tribunal to consider sexual harassment cases. Reaction to the bill was mixed, with some observers saying it was not sufficiently comprehensive.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Some schools allegedly required girl students to undergo intrusive physical examinations to prove they were menstruating and were therefore exempted from

prayers. Measures included school officials forcing girls to show their blood-soaked sanitary pads, doing swabs of their vaginas, or patting them to feel whether they were wearing a sanitary pad. Online news portal *Malaysiakini* reported in July that girls at several secondary schools were allegedly being subjected to period spot checks, despite the establishment by the Ministry of Education of an independent committee in June 2021 to investigate allegations.

Cultural barriers and government policies impeded access to sexual and reproductive health services. Sexual health education remained limited for all women, although more accessible for married women than for unmarried women, and for urban women more than rural. Reproductive awareness advocates and NGOs that provided sexual health education were frequently accused of encouraging sin and eliciting sexual behaviors. Government-run family planning clinics often would not provide contraceptive services to unmarried young persons.

One-Stop Crisis Centers, an integrated multiagency service in the emergency department of most major public hospitals, provided support, including emergency contraception, to survivors of sexual violence. Several NGOs also provided emergency services to survivors.

Discrimination: The constitution prohibits discrimination against citizens based on gender and gives men and women equal property rights; the government did not enforce the law effectively. Sharia, which deviates from these principles in some areas, was sometimes applied. For instance, Islamic inheritance law generally favors male offspring and male relatives. Sharia also generally requires a husband's consent for divorce, but some women obtained divorces under sharia without their husband's consent. Non-Muslims are not subject to sharia. Civil law gives non-Muslim mothers and fathers equal parental rights, while sharia favors fathers. Four states – Johor, Selangor, Negri Sembilan, and Pahang – extend equal parental rights to Muslim mothers.

Ruling in August that Malaysian women could not confer citizenship to children born overseas (see Children, Birth Registration, below), the Appeals Court stated that the word “father” in the federal constitution applied only to the biological father and could not be expanded to include the mother. Civil society criticized the ruling and described citizenship laws as discriminatory towards women.

The law requires equal pay for male and female workers for work of equal value. Nonetheless, NGOs reported continued discrimination against women in the

workplace in terms of promotion and salary (see section 7.d.).

Systemic Racial or Ethnic Violence and Discrimination

No laws provided for the protection of members of racial or ethnic minority groups against violence and discrimination. The constitution gives ethnic Malays and Indigenous groups, collectively known as *bumiputra*, a “special position” in the country. Government regulations and policies provided extensive preferential programs to boost the economic position of bumiputra, a majority of the population. Such programs limited opportunities for nonbumiputra (primarily ethnic Chinese and Indians) in higher education and government employment. Many industries were subject to race-based requirements that mandated bumiputra ownership levels. Government procurement and licensing policies favored bumiputra-owned businesses. The government claimed these policies were necessary to attain ethnic harmony and political stability.

The government and politicians often incited or condoned violence or abuse of members of racial or ethnic minority groups.

In August president of the Malaysian Islamic Party and member of parliament Hadi Awang said in a Facebook post that non-Malays were the “roots of corruption” in the country. Police investigated him for incitement but did not press charges.

Indigenous Peoples

The constitution provides Indigenous and non-Indigenous persons with the same civil and political rights, but the government did not effectively protect these rights.

Indigenous persons in peninsular Malaysia, known as Orang Asli, who numbered approximately 200,000 in 2017 (latest data available), constituted the poorest group in the country. In August the Center for Orang Asli Concerns, an NGO, reported the Orang Asli poverty rate stood at 89 percent in 2020. The Oran Asli had very little ability to participate in decisions that affected them. The constitution provides for “the special position of the Malays and natives of any of the States of Sabah and Sarawak” but does not refer specifically to the Orang Asli. This ambiguity over the community’s status in the constitution led to selective interpretation by different public institutions.

The courts have ruled that the Orang Asli have rights to their customary lands under the constitution, but NGOs contended the government failed to recognize these judicial pronouncements. The government may seize customary land if it provides compensation. There were confrontations between Indigenous communities and logging companies over land, and uncertainty over their land tenure made Indigenous persons vulnerable to exploitation.

Environmental groups criticized large-scale hydroelectric projects due to their effect on Indigenous communities, including displacement and environmental degradation. For example in July, Orang Asli individuals protested the Nenggiri hydroelectric dam in Gua Musang, Kelantan State; members of the Kelantan Network of Orang Asli Villages threatened legal action and called for a mass movement against the project, which could displace 500 Indigenous families.

Children

Birth Registration: A child born in the country obtains citizenship if one parent is a citizen or permanent resident at the time of birth and the parents are married. Parents must register a child within 14 days of birth. Birth registration is mandatory for all children born in the country, although it does not confer citizenship. Parents applying for late registration must provide proof the child was born in the country. The National Registration Department will register children born to asylum seekers and refugees but registration itself does not confer citizenship (see section 2.g., Stateless Persons). Access to birth registration can be difficult for migrants due to fear of authorities but UNHCR encouraged families of registered refugees to register the birth of their children.

In August the Court of Appeal ruled that Malaysian mothers married to foreign spouses could not confer citizenship to children born overseas, overturning a September 2021 court ruling which permitted it.

Education: Education is free, compulsory, and universal through primary school (six years of school) for citizens and permanent residents, although there was no mechanism to enforce attendance. Public schools are open to some UNHCR-registered refugees, but not to the children of undocumented immigrants.

Child Abuse: The law provides for the protection, care, and rehabilitation of children; obliges medical practitioners, guardians, and babysitters to report any suspected cases of abuse; and protects children against violence “within the

family.” In September the Ministry of Women, Family, and Community Development reported a total of 1,055 child abuse cases recorded nationwide from January to June. Physical abuse was the highest number recorded at 578 cases (54.8 percent), followed by sexual abuse at 417 cases (39.6 percent), and emotional abuse at 60 cases (5.6 percent). Of the total, 706 cases involved abuse against girls, while 349 involved boys.

Child, Early, and Forced Marriage: The minimum age of marriage varies by state, but in most instances was 18 for men and 16 for women. Muslim girls younger than 16 may marry with the approval of a sharia court. Indigenous persons are governed by customary laws with no fixed minimum age for marriage. In some cases authorities treated early marriage as a solution to statutory rape. Advocates remained concerned that Rohingya refugee families were resorting to child marriage for their girls to cope with economic hardship.

The government’s national five-year roadmap (covering 2021-25) targets child marriage. The plan outlined policies to increase access to education and attendance in schools, increase access to health education, address stigma and social norms on child marriage, and specify laws and guidelines on child marriages that are in line with government policies guarding the well-being of children.

In July the Kedah State assembly passed the Islamic Family Law (Amendment) Enactment Bill 2022 which raised the marriageable age for women in the state from 16 to 18. Civil society activists complained that the amendment provided for exceptions that still allow for marriage below age 18.

Sexual Exploitation of Children: The law bans child pornography and states that a child is considered a victim of sexual abuse if he or she has taken part as a participant or an observer in any activity that is sexual in nature for the purposes of a photograph, recording, film, videotape, or performance. Authorities enforced the law. By law the minimum age for consensual, noncommercial sex is 16 for both boys and girls. Federal police reported approximately 20,000 internet addresses in the country uploading and downloading child pornography. Involvement in making or producing child pornography carries a penalty of up to 30 years’ imprisonment and not fewer than six strokes of a cane; conviction for accessing or possessing child pornography carries a punishment of five years’ imprisonment or a fine; conviction for trafficking in persons involving a child for the purposes of commercial sexual exploitation carries a punishment of three to 20 years’

imprisonment and a fine.

The government focused on preventing sexual exploitation of children, including sex trafficking. There is a special court for sexual crimes against children, established to speed up trials that often took years to conclude. Commercial sexual exploitation of children occurred; a local NGO estimated in 2015 (the last year with reported data) that 5,000 children were exploited in commercial sex in Kuala Lumpur and surrounding areas. Authorities, however, at times treated children exploited in commercial sex as offenders or undocumented immigrants rather than as victims.

A child's testimony is acceptable only if there is corroborating evidence, which posed special problems for molestation cases in which the child victim was the only witness.

Displaced Children: Street children were most prevalent in Sabah State. Estimates of the street-child population ranged from a few thousand to 15,000, many of whom were born in the country to illegal immigrant parents. Authorities deported some of these parents, leaving their children without guardians. Lacking citizenship, access to schooling, or other government-provided support, these children often resorted to menial labor and criminal activities to survive; those who are homeless were vulnerable to sex trafficking and forced labor, including forced begging.

Institutionalized Children: The Welfare Department under the Ministry of Women was responsible for orphaned or abandoned children and oversaw 15 children's homes, nine *Tunas Harapan* (Buds of Hope) family-based children's shelter homes, and two shelters for trafficking victims. According to the NGO OrphanCare, in 2021 an estimated 64,000 children lived in child-care institutions in registered and unregistered government and private orphanages.

Observers reported that some private facilities run by Muslim organizations practiced *amal jariah* (charity) which supersedes the child's existing familial ties for a connection with an Islamic family and can make it difficult for the child to return to his or her biological family.

Antisemitism

The country's Jewish population was estimated at 100-200 persons, consisting

mostly of foreign residents. Antisemitism was a serious problem across the political spectrum and attracted wide support among segments of the population.

There were restrictions on Israeli citizens entering the country.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: All same-sex sexual conduct is illegal under both federal law and state sharia provisions. Under the law, sodomy and oral sex acts are “carnal intercourse against the order of nature;” the federal penal code imposes a sentence of 20 years in prison and mandatory caning, although it was not actively enforced. State sharia provisions, enforced by state Islamic religious departments and only applicable to Muslims, permitted caning for consensual same-sex relations and for a man posing as a woman, although the law does not apply to a woman posing as a man at the federal level.

On October 29, authorities from the Kuala Lumpur City Council, the Federal Territories Islamic Department (JAWI), and police raided a ticketed Halloween party at a commercial venue in Kuala Lumpur, according to an October 30 statement from the local district police chief. Many of the partygoers identified as LGBTQI+, according to media reports. Eyewitnesses said authorities asked the attendees to present their identity cards, and JAWI officers separated individuals listed as Muslim on their identity cards from non-Muslims. JAWI officers detained 20 individuals whose identity cards stated they were male Muslims for being a “male person who, in any public place, wears a woman's attire and poses as a woman for immoral purposes.” Sources reported that party organizers allegedly received prior approval from police for the event. After legal intervention from the Malaysian Bar Council, JAWI released the detainees on bail on October 30, but the individuals were required to appear on October 31 for questioning and “counseling,” according to one of the detainees. Local human rights activists condemned the raid as intimidation of the LGBTQI+ community and some

speculated the raid was likely done to galvanize conservative Muslims leading up to general elections on November 19.

Violence against LGBTQI+ Persons: Observers reported violence against LGBTQI+ persons was common, and that police at times perpetrated and condoned such violence, including against individuals in custody. According to local advocates, imprisoned transgender women usually served their sentences in prisons designated for men and both police and inmates abused them sexually and verbally. A 2018 survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse.

Discrimination: The law does not prohibit discrimination based on sexual orientation, gender identity or expression, or sex characteristics and does not recognize LGBTQI+ individuals, couples, or their families. LGBTQI+ persons reported discrimination in employment, housing, and access to some government services because of their sexuality.

Authorities often charged transgender persons with “indecent behavior,” “a man posing as a woman,” or “importuning for immoral purposes” in public, even if they were not soliciting. A person convicted of a first offense faced a token fine and a maximum sentence of 14 days in jail; sentences for subsequent convictions were fines and up to three months in jail.

Availability of Legal Gender Recognition: There was no legal process to allow individuals to update their gender markers on identity documents. In August the domestic NGO Justice for Sisters and Human Rights Watch released a report entitled *I Don't Want to Change Myself: Anti-LGBT Conversion Practices, Discrimination, and Violence in Malaysia* which reported that almost all transgender individuals who were known to have approached the National Registration Department to request such changes were turned down.

Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals: The government funded retreats known as *mukhayyam* (rehabilitation) that aimed to change LGBTQI+ individuals. As of June 2021, at least 1,733 persons had attended these programs, the government reported. State religious authorities reportedly forced LGBTQI+ persons to participate in “conversion therapy,” “treatment,” or “rehabilitation” programs to “cure” them of their sexuality. “Malaysia’s current rehabilitation and

criminalization approaches to LGBT people are based neither in rights nor evidence,” said Thilaga Sulathireh, cofounder of the NGO Justice for Sisters.

In March the Department of Islamic Development released a smartphone app designed to “assist” Muslims who have become “entrenched in LGBTQI+ practices” to return to the “correct ways” as taught in Islamic scripture. Google Play and Apple App stores both removed the app after public complaints.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly:

Depictions of or speech about LGBTQI+ themes were illegal; during the year several publications were banned for promoting LGBTQI+ culture (see section 2, Restrictions on Academic Freedom and Cultural Events).

In April the Malaysian Communications and Multimedia Commission investigated several individuals in relation to a video clip involving “a group of male dancers in make-up who display effeminate behavior” as the video was “unsuitable for public consumption, especially during the holy month of Ramadan.”

In June Selangor State police chief Arjunaidi Mohamed told media that police arrested several transgender women who allegedly danced seminude and set off fireworks at an Eid al-Fitri event on May 27, as well as the organizer of the event. He stated that the case was being investigated for insulting the modesty of a person, for causing explosions likely to endanger life or property, and for speech intended to “annoy, abuse, threaten or harass another person.” The case was pending at year’s end.

In August Deputy Minister of Communications and Multimedia Datuk Zahidi Zainul Abidin said the government and religious institutions would continue efforts to “curb any elements or scenes deemed to be promoting inappropriate culture such as lesbian, gay, bisexual and transgender” in films or social media like TikTok and would take “severe action” against individuals found promoting such elements.

Persons with Disabilities

Some persons with disabilities could not access education, health services, public buildings, and transportation on an equal basis with others. The law affords persons with disabilities the right to equal access and use of public facilities, amenities, services, and buildings open or provided to the public. The Ministry of

Women, Family, and Community Development is responsible for safeguarding the rights of persons with disabilities.

New government buildings generally had a full range of facilities for persons with disabilities. The government, however, did not mandate accessibility to transportation for persons with disabilities, and authorities retrofitted few older public facilities to provide access for persons with disabilities. Recognizing public transportation was not “friendly” to persons with disabilities, the government maintained a 50 percent reduction of excise duty on locally made cars and motorcycles adapted for such persons.

Employment discrimination occurred against persons with disabilities (see section 7.d.).

Students with disabilities attended mainstream schools, but many schools were not fully accessible to persons with disabilities. Separate education facilities also existed but were insufficient to meet the needs of all students with disabilities. As of October 2021, there were 97,220 students enrolled under the Ministry of Education’s Special Education Program which includes 34 special education schools, the special education integration program which puts students with special needs in special classes in mainstream schools, and the inclusive education program which mainstreams students with special needs.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for limited freedom of association and for certain categories of workers to form and join trade unions, subject to a variety of legal and practical restrictions. The law provides for the rights to strike and to bargain collectively, but both were severely restricted. The law prohibits employers from interfering with trade union activities, including union formation. It prohibits employers from retaliating against workers for legal union activities and requires reinstatement of workers fired for union activity.

The government did not effectively enforce laws prohibiting employers from seeking retribution for legal union activities and requiring reinstatement of workers fired for trade union activity. Penalties included fines but were seldom assessed and were not commensurate with those under other laws involving denials of civil

rights, such as discrimination.

The law prohibits defense and police officials and retired or dismissed workers from joining a union. The law also restricts the affiliation of unions within the country to other unions in similar trades, occupations, or industries; ministerial approval was needed to affiliate with any organization outside the country. Foreign workers may join a trade union but may not hold union office unless they obtain permission from the Ministry of Human Resources. Subcontracted workers may not form a union and may not negotiate or benefit from collective bargaining agreements.

The director general of trade unions and the minister of human resources may refuse to register or withdraw registration from unions without judicial oversight. The time needed for a union to be recognized remained long and unpredictable. Union officials expressed frustration over delays. Employers may challenge a union's request for recognition, leading to multiyear delays in recognizing unions.

Most private-sector workers have the right to bargain collectively, although these negotiations may not include matters of transfer, promotion, appointments, dismissal, or reinstatement.

A joint consultation system for public-sector labor relations effectively reduced public sector unions to an advisory role and there are no recent examples of public sector strikes. The government also had the right to compel arbitration in labor disputes at the minister of labor's sole discretion.

Private-sector strikes were severely restricted. The law requires two-thirds of the members of a registered trade union to vote for a strike through a secret ballot, and a report must be submitted to the director general of trade unions to approve the strike as legal. Workers who strike without the consent of the director general of trade unions are liable to a fine, imprisonment for up to one year, or both. The law prohibits general strikes, and trade unions may not strike over disputes related to trade-union registration or illegal dismissals. Workers may not strike in a broad range of industries deemed "essential." They may not strike over a dispute that is under consideration by the Industrial Court. Union officials claimed legal requirements for strikes were almost impossible to meet.

The International Labor Organization observed that the country's laws, regulations, and practice do not fully support freedom of association and collective bargaining.

Freedom of association and collective bargaining were not fully respected. National-level unions are prohibited; the government allows three regional territorial federations of unions – for peninsular Malaysia, and for the states of Sabah and Sarawak – to operate. They exercised many of the responsibilities of national-level labor unions, although they could not bargain on behalf of local unions. The Malaysian Trades Union Congress (MTUC) is a registered “society” of trade unions in both the private and government sectors that does not have the right to bargain collectively or strike but may provide technical support to affiliated members. The MTUC reported that approximately 6 percent of the country’s workers were in unions, and fewer than 2 percent were covered by collective bargaining agreements. Some workers’ organizations were independent of government, political parties, and employers, but employer-dominated or “yellow” unions were reportedly a concern.

In some instances companies reportedly harassed leaders of unions that sought recognition. Some trade unions reported the government detained or restricted the movement of some union members under laws allowing temporary detention without charging the detainee with a crime. Trade unions asserted some workers had wages withheld or were terminated because of union-related activity.

b. Prohibition of Forced or Compulsory Labor

The law prohibits and criminalizes all forms of forced or compulsory labor. Five agencies, including the Department of Labor of the Ministry of Human Resources, have enforcement powers under the law, but their officers did not always actively search for indications of forced labor. NGOs continued to criticize the lack of resources dedicated to enforcement of the law.

In March parliament passed an amendment to the Employment Act which provides labor inspectors a legal definition of forced labor that now incorporates threats and intimidation, restriction of movement, and fraud. Convictions of forced labor will result in a modest fine or a sentence up to two years’ imprisonment. The government did not always effectively enforce laws prohibiting forced labor.

Nonpayment of wages remained a concern. Employers confiscating passports increased migrant workers’ vulnerability to forced labor; the practice, although illegal, was widespread. Migrant workers without access to their passports were more vulnerable to harsh working conditions, lower wages than promised, unexpected wage deductions, and poor housing. NGOs reported that agents or

employers in some cases drafted contracts that included a provision for employees to sign over the right to hold their passports to the employer or an agent.

Employers, employment agents, and labor recruiters subjected some migrants to forced labor or debt bondage. Many companies hired foreign workers using recruiting or outsourcing companies, creating uncertainty about the legal relationship between the worker, the outsourcing company, and the owner of the workplace, and making workers more vulnerable to exploitation. Labor union representatives noted that recruiting agents in the countries of origin and locally sometimes charged high fees, making migrant workers vulnerable to debt bondage.

There were credible reports certain companies that produce palm oil and rubber gloves used forced labor.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits all the worst forms of child labor. The law prohibits the employment of children younger than 15 but permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the government in a school or in training institutions, or work as an approved apprentice. There is no minimum age for engaging in light work. For children between ages 14 and 18, there was no list clarifying specific occupations or sectors considered hazardous and therefore prohibited.

The government did not effectively enforce laws prohibiting child labor. Those found contravening child labor laws faced penalties that were not commensurate with those for other similar crimes, such as kidnapping. Penalties were rarely applied against violators.

Child labor occurred in some family businesses. Child labor in urban areas was common in the informal economy, including family food businesses and night markets, and in small-scale industry. Child labor was also evident among migrant domestic workers.

There were no confirmed reports during the year of the worst forms of child labor.

NGOs reported that stateless children in Sabah State were especially vulnerable to

labor exploitation in palm oil production, forced begging, and work in service industries, including restaurants. Although the National Union of Plantation Workers reported it was rare to find children involved in plantation work in peninsular Malaysia, others reported instances of child labor on palm oil plantations across the country. Child sex trafficking also occurred (see section 6, Children).

Also see the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

d. Discrimination with Respect to Employment and Occupation

The law does not include specific workplace discrimination laws, but the constitution prohibits discrimination against citizens on the grounds only of religion, race, descent, place of birth, or gender. The director general of labor may investigate discrimination in the terms and conditions of employment for both foreign and local employees. The law prohibits women from working underground, such as in mines, and restricts employers from requiring women employees to work in industrial or agricultural work between 10 p.m. and 5 a.m. or to commence work for the day without having 11 consecutive hours of rest since the end of the last work period.

The director general may issue necessary directives to an employer to resolve allegations of discrimination in employment, and there are penalties for each day the offense continues.

Employers are obligated to inquire into most sexual harassment complaints in a prescribed manner. Advocacy groups such as the Association of Women Lawyers stated these provisions were not comprehensive enough to provide adequate help to victims.

Discrimination in employment and occupation occurred with respect to women; members of national, racial, and ethnic minority groups; and persons with disabilities. A code of practice guides all government agencies, employers, employee associations, employees, and others with respect to placement of persons with disabilities in private-sector jobs. Disability-rights NGOs reported that employers were reluctant to hire persons with disabilities (see section 6, Persons with Disabilities). A regulation reserves 1 percent of public-sector jobs for persons

with disabilities.

Migrant workers must undergo mandatory testing for more than 15 illnesses as well as pregnancy. Employers may immediately deport pregnant or ill workers. Migrant workers also faced employment discrimination (see sections 7.b. and 7.e.). Employers were unilaterally able to terminate work permits, subjecting migrant workers to immediate deportation.

Women experienced some economic discrimination in access to employment. Employers routinely asked women their marital status during job interviews.

The government reserved large quotas for the bumiputra majority for positions in the federal civil service as well as for vocational permits and licenses in a wide range of industries, which greatly reduced economic opportunity for minority groups (see section 6, Systemic Racial or Ethnic Violence and Discrimination).

e. Acceptable Conditions of Work

Wage and Hour Laws: The minimum wage applied to both citizen and foreign workers, except for those in domestic service and the gig economy. Minimum wage rates varied according to location and were less than Ministry of Finance-published poverty income levels in Sabah and Sarawak states.

In March parliament passed amendments to the Employment Act that include a 45-hour workweek, unless workers receive overtime pay. The director general of the Department of Labor may grant exceptions if there are special circumstances making the extra hours necessary. Other amendments extend maternity leave from 60 to 98 days, restrict the termination of pregnant employees, and introduce paternity leave for married male workers. The amendments were scheduled to take effect January 1, 2023.

The law protects foreign domestic workers only regarding wages and contract termination. The law excludes them from provisions that stipulate one rest day per week, an eight-hour workday, and a 45-hour workweek. Instead, bilateral agreements or memoranda of understanding between the government and some source countries for migrant workers include provisions for rest periods, compensation, and other conditions of employment for migrant domestic workers, including prohibitions on passport retention.

In April Malaysia and Indonesia signed a memorandum of understanding to combat forced labor among domestic workers. The memorandum states that Indonesian workers in Malaysia are entitled to insurance benefits in the event of serious injury or death, a weekly rest day, and the right to hold their passports and communicate with family members in Indonesia.

On May 1, Prime Minister Sabri announced a 25 percent increase in the national monthly minimum wage. The law obligates the government to review the minimum wage every two years. In August the Malaysian Trades Union Congress claimed companies supplying cleaners and security guards in schools and other government facilities were refusing to pay their workers the new minimum wage.

Occupational Safety and Health: Occupational safety and health (OSH) laws cover all sectors of the economy except the maritime sector and the armed forces. The law requires workers to use safety equipment and cooperate with employers to create a safe, healthy workplace, but it does not specify a right to remove oneself from a hazardous or dangerous situation without penalty. Laws on worker's compensation cover both local and migrant workers.

The National Occupational Safety and Health Council – composed of workers, employers, and government representatives – creates and coordinates implementation of occupational health and safety measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies with more than 40 workers to establish joint management-employee safety committees.

According to Department of Occupational Safety and Health statistics, as of June, 102 workers died, 3,455 acquired a nonpermanent disability, and 113 acquired permanent disability in work-related incidents.

Wage, Hour, and OSH Enforcement: The Department of Labor of the Ministry of Human Resources enforces wage, working condition, and occupational safety and health (OSH) standards. The government did not effectively enforce the law. Inspectors have the authority to conduct unannounced inspections and initiate sanctions. The number of labor enforcement officers was insufficient to enforce compliance. Many businesses have operated for years without an inspection.

Employers or employees who violate occupational health and safety laws are subject to fines, imprisonment, or both. Penalties for violations were not

commensurate with those for similar crimes. Penalties for employers who fail to follow the law begin with a fine assessed per employee and may rise to imprisonment. Employers may be required to pay back wages plus the fine. If they refuse to comply, employers face additional fines for each day that wages are not paid. Penalties were rarely applied to violators.

Employers did not respect laws on wages and working hours. The MTUC reported that 12-, 14-, and 18-hour days were common in food and other service industries.

Migrant workers often worked in sectors where violations were common. They performed hazardous duties and had no meaningful access to legal counsel in cases of contract violations and abuse. Some workers alleged their employers subjected them to inhuman living conditions and physically assaulted them. Employers of domestic workers sometimes failed to honor the terms of employment and subjected workers to abuse. Employers reportedly restricted workers' movement and use of mobile telephones; provided substandard food; did not provide sufficient time off; sexually assaulted workers; and harassed and threatened workers, including with deportation.

Informal Sector: As of 2019, the most recent year for which data were available, more than one million workers were considered to be in the nonagricultural informal sector. This included any enterprise not registered with the Companies Commission of Malaysia or other professional body and included more than one million self-employed or micro businesses, such as in-home workers, street vendors, and small workshops. More than half of informal workers were male, and more than three-quarters were in the cities.

In March parliament passed an amendment to the Employment Act 1955 which gave gig workers presumption of employment, conferring on them the same protection afforded other employees even without a written contract. In addition, provisions under the Self-Employment Social Security Act 2017 require self-employed individuals to register, contribute to the self-employment social security scheme, and those above certain income levels, pay taxes. This was scheduled to take effect in 2023.